

Department of Justice

§ 16.80

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of an investigation to obtain valuable information concerning the nature of that investigation. This would permit record subjects to impede the investigation, e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid inquiries.

(2) From subsection (d) because access to the records might compromise ongoing investigations, reveal confidential informants, or constitute unwarranted invasions of the personal privacy of third parties who are involved in a certain investigation.

[Order No. 10-88, 53 FR 7735, Mar. 10, 1988]

§ 16.79 Exemption of Pardon Attorney Systems.

(a) The following systems of records are exempt from 5 U.S.C. 552a(d):

(1) Executive Clemency Files (JUSTICE/OPA-001).

(2) Freedom of Information/Privacy Acts (FOI/PA) Request File (JUSTICE/OPA-003).

These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(b) Exemption from subsection (d) is justified for the following reasons:

(1) Executive Clemency Files contain investigatory and evaluative reports relating to applicants for Executive clemency. The FOI/PA Request File contains copies of documents from the Executive Clemency Files which have not been released either in whole or in part pursuant to certain provisions of the FOI/PA. Release of such information to the subject would jeopardize the integrity of the investigative process, invade the right of candid and confidential communications among officials concerned with recommending clemency decisions to the President, and disclose the identity of persons who furnished information to the Gov-

ernment under an express or implied promise that their identities would be held in confidence.

(2) The purpose of the creation and maintenance of the Executive Clemency Files is to enable the Pardon Attorney to prepare for the President's ultimate decisions on matters which are within the President's exclusive jurisdiction by reason of Article II, Section 2, Clause 1 of the Constitution, which commits pardons to the exclusive discretion of the President.

[Order No. 26-88, 53 FR 51542, Dec. 22, 1988]

§ 16.80 Exemption of Office of Professional Responsibility System—limited access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f) and (g):

(1) Office of Professional Responsibility Record Index (JUSTICE/OPR-001).

These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of the disclosure accounting would enable the subject of an investigation to gain information concerning the existence, nature and scope of the investigation and seriously hamper law enforcement efforts.

(2) From subsections (c)(4), (d), (e)(4)(G) and (H), (f) and (g) because these provisions concern individual access to records and such access might compromise ongoing investigations, reveal confidential informants and constitute unwarranted invasions of the personal privacy of third persons who provide information in connection with a particular investigation.

(3) From subsections (e)(1) and (5) because the collection of information during an investigation necessarily involves material pertaining to other persons or events which is appropriate in a thorough investigation, even though portions thereof are not ultimately connected to the person or